

REMARKS

Reconsideration of this application and allowance of the claims is respectfully requested.

The examiner has rejected claims 2 and 12 as anticipated by Sauer et al. U.S. Patent 5,496,341.

It is believed that the examiner will agree that the device of Sauer et al. is for a very significantly different function than the function as defined in the claims of this invention, namely pliers for crushing crimps and thus retaining wires and cables at a desired degree of tension. The device of Sauer et al. is, of course, not for crushing a malleable metal structure, but rather is for flattening and spontaneously compressing a portion of the vas deferens, which of course is soft, tubular tissue.

Furthermore, Sauer et al. fails to also teach the structure which claim 12, as amended, defines. Specifically, note in claim 12, line 9, *et seq.*, the requirement that the first and second walls, which are each outer sidewalls, define "...a single, open crimp space therebetween...". This of course is readily seen in Fig. 6 of the drawings of this application, where the crimp space 58 is shown to be defined by longitudinally extending trough 64, bracketed by side walls in jaw portion 48. See also the first complete paragraph of page 11 of the specification. Thus, the single, open crimp space as shown in Fig. 6, is claimed in claim 12. Note also on page 11, the disclosure that the upper jaw has plate defining surfaces 66. Fig. 7 shows how the plate edge grips crimp 10.

As the examiner will recognize, Sauer et al. shows a jaw system where the lower jaw has of course a pair of sidewalls, but there is no "single, open crimp space therebetween" as in this invention. Instead, there is a central wall in Sauer et al., which,

with the sidewalls, defines the scalpel grooves 28 as a space between the central wall and a respective sidewall.

There also are transverse, tissue capturing grooves 24 and 26 disclosed in the Sauer et al. device but these grooves also clearly do not define a "single, open crimp space" between the respective sidewalls, as shown in Fig. 6 of this application, for example.

Turning to the second jaw portion as described in claim 12, the second jaw portion 46 comprises "...a single, rigid, metal crimp gripping and crushing projection comprising a vertical plate, which plate is operative to move toward said crimp space between said first wall and said second wall as the interactive jaw portions are pivoted to a closed, crimp-crushing position, with an edge of said plate engaging the crimp."

The basic structure of the upper jaw as a vertical plate is shown in Fig. 6, and its edge which engages the crimp is of course shown in Fig. 7.

To the contrary, in Sauer et al., the upper jaw is a bar having an edge which engages nothing. Instead, a pair of compliant (i.e. non-rigid) fingers 48 and 49 engage the respective grooves 26 and 24, "...to gently compress the body tissue held therein." (Sauer et al. column 3, lines 53-55.) The compliant fingers 48 and 49 are the part of a "second jaw" that engage the vas deferens.

Accordingly, there is a complete disconnect as to the function of the jaws of Sauer et al. and that of claim 12, and, structurally, it is clear that the critical part of the second jaw portion of Sauer et al. is not rigid. It may comprise a projection, but claim 12 calls for a rigid, metal crimp gripping and crushing projection. There is no way that the

compliant fingers 48 and 49 could comprise a rigid, metal crimp gripping and crushing projection that comprises a vertical plate, where the plate edge engages the crimp.

Accordingly, it is submitted that Sauer et al. does not teach the limitations of amended claim 12, nor would anybody skilled in the art find the crimping pliers of claim 12 obvious in view of Sauer et al., because of the greatly different use and function thereof.

Claim 13 and its dependent claims call for similar crimping pliers which actually carry a metal crimp for wires or cables in the jaws, as supported, for example by Fig. 7. Clearly, those skilled in the art would not be led to use the device of Sauer et al. with such a crimp, for the purpose of crushing such a crimp or for any other purpose.

Claim 5 has been rejected as unpatentable over Peterson U.S. Patent No. 4,541,312 in view of Sauer et al. Claim 5 of course is dependent upon claim 12, and as such shares in the distinctions thereof. Accordingly, claim 5 is believed to be patentable.

Referring to the rejection of claims 7-8, the examiner states on page 3, section 5 of the Office Action: "Burke discloses all the limitations of claim 3, but does not disclose the inclusion of an auxiliary handle w/ a limited range of pivotal movement."

Burke 5,545,168 does disclose auxiliary handle 16, which is a ratchet handle. However handle 16 is not "pivotally mounted on one of said handles of said pair..." as called for in claim 7.

Also, it is believed that when the examiner is referring to claim 3 in Section 5, line 2, that must be a clerical error. Applicant's attorney is assuming that claim 7 was the intended claim referred to. If so, note that Burke fails to disclose the auxiliary handle 57

that is "...of substantially similar length to handles of said pair, said auxiliary handle being pivotally mounted on one of the handles of said pair...".

If one were to add to the pliers of Burke the ratchet mechanism and little handle 50 of Nelson 4,643,054, this combination still fails to disclose an auxiliary handle "...of substantially similar length to handles of said pair..." as called for in claim 7. Contrast handle 57 of Fig. 5 of this application with the little handle 50 of Fig. 6.

The reason for the difference in size is the difference in function. Those skilled in the art would not be lead to use the little handle 50 for the purpose of facilitating closing of the crimping pliers for crimping action by a person with a small hand, as called for in claim 7. Rather, the longer handle 57 as in Fig. 5 of this application would be needed there, not the short handle 50, which, of course, is for use as a finger switch for opening the ratchet system of the Nelson patent to permit opening of the pliers.

Note also in claim 7 that the purpose of the auxiliary handle of substantially similar length to handles of the pair of handles is "...to facilitate closing of said crimping pliers for crimping action by a person with a small hand." (Emphasis added) The little handle 50 of Nelson controls a latch for opening of the pliers, contrary to claim 7. People with small hands don't need special help in opening the pliers; just closing them.

Accordingly, it is submitted that claim 7 and its dependent claim 8 are patentable.

The examiner has rejected claims 9-11 as unpatentable over Burke in view of Petersen. These claims are dependent upon their parent claims, and thus share in the patentable distinctions thereof.

The cited Undin et al. Patent No. 4,353,240 is distinguished by the claims of this application respectively by the presence of the first and second crimp retaining prongs with respect to claim 12, and the auxiliary handle in claim 7, among other distinctions.

Respectfully submitted,

SEYFARTH SHAW LLP



Garrettson Ellis
Registration No. 22,792
Attorney for Applicant

SEYFARTH SHAW LLP
55 East Monroe Street, Suite 4200
Chicago, Illinois 60603
(312) 269-8567

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Registered Attorney for Applicant
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